

K052 nonwastewater (see also table CCWE in § 268.41)	Concentration (in mg/kg)
Toluene.....	3.93
Xylene.....	8.54
o-Cresol.....	0.84
p-Cresol.....	0.84
Naphthalene.....	0.84
Phenanthrene.....	0.84
Phenol.....	0.84
Cyanide.....	1.48

K052 wastewater	Concentration (in mg/l)
Phenanthrene.....	0.007
2,4-Dimethylphenol.....	0.007
Benzene.....	0.023
Xylene.....	0.007
o-Cresol.....	0.007
p-Cresol.....	0.007
Naphthalene.....	0.007
Phenol.....	0.007
Chromium (total).....	0.20
Lead.....	0.037
Zinc.....	0.40

K015 wastewater	Concentration (in mg/l)
Anthracene.....	1.02
Benzal chloride.....	0.28
Benzo(b and/or k) fluoranthene.....	0.29
Phenanthrene.....	0.27
Toluene.....	1.00
Chromium (total).....	0.30
Nickel.....	0.44

K037 nonwastewater	Concentration (in mg/kg)
Disulfoton.....	0.1
Toluene.....	28.0

K037 wastewater	Concentration (in mg/l)
Disulfoton.....	0.003
Toluene.....	0.028

No Land Disposal for:

K004
K008
K015 nonwastewater
K036
K061 wastewater
K069
K073
K100

(b) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

Subpart E—Prohibitions on Storage

12. Section 268.50 is amended by revising paragraph (d) to read as follows:

§ 268.50 Prohibitions on storage of restricted wastes.

(d) The prohibition in paragraph (a) of this section does not apply to wastes which are the subject of an approved petition under § 268.6, a nationwide variance under Subpart C of this part, an approved case-by-case extension under § 268.5, or a valid certification under § 268.8.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

IV. In Part 271:

1. The authority citation for Part 271 is revised to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

Subpart A—Requirements for Final Authorization

2. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication in the Federal Register:

§ 271.1 Purpose and scope.

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	FEDERAL REGISTER reference	Effective date
[Insert date of publication of final rule in the FEDERAL REGISTER].	Land disposal restrictions for First Third wastes.....	53 FR [insert FEDERAL REGISTER page numbers].....	Aug. 8, 1988.

3. Section 271.1(j) is amended by adding the date of publication and the

Federal Register page numbers to the following entry in Table 2.

§ 271.1 Purpose and scope.

(j) * * *

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	FEDERAL REGISTER reference
Aug. 8, 1988.....	Land disposal restrictions on First Third of listed wastes.	3004(g).....	[Insert date of publication], 53 FR [insert FEDERAL REGISTER page numbers].

[FR Doc. 88-7379 Filed 4-7-88; 8:45 am]

BILLING CODE 6560-50-M

TABLE 1
Descriptive Statistics of the Data

Variable	Mean	Standard Deviation	Minimum	Maximum
Age	34.5	12.5	18	65
Gender	0.5	0.5	0	1
Marital Status	0.7	0.45	0	1
Education	12.5	1.5	9	16
Income	15,000	10,000	5,000	40,000
Home Value	100,000	50,000	30,000	200,000
Unemployment	0.05	0.02	0	0.1
Health Insurance	0.9	0.3	0	1
Life Insurance	0.8	0.4	0	1
Auto Insurance	0.95	0.2	0	1
Life Satisfaction	4.5	1.5	1	7
Health Satisfaction	4.0	1.5	1	7
Financial Satisfaction	3.5	1.5	1	7
Family Satisfaction	4.0	1.5	1	7
Community Satisfaction	3.5	1.5	1	7
Life Satisfaction (Control)	4.5	1.5	1	7
Health Satisfaction (Control)	4.0	1.5	1	7
Financial Satisfaction (Control)	3.5	1.5	1	7
Family Satisfaction (Control)	4.0	1.5	1	7
Community Satisfaction (Control)	3.5	1.5	1	7

TABLE 2
Regression Results for the Life Satisfaction Equation

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
Age	0.001	0.001	1.2	0.23
Gender	0.05	0.05	1.0	0.32
Marital Status	0.10	0.05	2.0	0.05
Education	0.005	0.005	1.0	0.32
Income	0.0005	0.0005	1.0	0.32
Home Value	0.0005	0.0005	1.0	0.32
Unemployment	-0.005	0.005	-1.0	0.32
Health Insurance	0.05	0.05	1.0	0.32
Life Insurance	0.05	0.05	1.0	0.32
Auto Insurance	0.05	0.05	1.0	0.32
Life Satisfaction (Control)	0.00	0.00	0.0	1.00
Health Satisfaction (Control)	0.00	0.00	0.0	1.00
Financial Satisfaction (Control)	0.00	0.00	0.0	1.00
Family Satisfaction (Control)	0.00	0.00	0.0	1.00
Community Satisfaction (Control)	0.00	0.00	0.0	1.00

TABLE 3
Regression Results for the Health Satisfaction Equation

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 4
Regression Results for the Financial Satisfaction Equation

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 5
Regression Results for the Family Satisfaction Equation

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 6
Regression Results for the Community Satisfaction Equation

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 7
Regression Results for the Life Satisfaction Equation (Control)

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 8
Regression Results for the Health Satisfaction Equation (Control)

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 9
Regression Results for the Financial Satisfaction Equation (Control)

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 10
Regression Results for the Family Satisfaction Equation (Control)

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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TABLE 11
Regression Results for the Community Satisfaction Equation (Control)

Variable	Coefficient	Standard Error	t-Statistic	Probability > t
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FRIDAY APRIL 8, 1988 PART III DEPARTMENT OF DEFENSE GENERAL SERVICES ADMINISTRATION NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Friday
April 8, 1988

Part III

Department of Defense

**General Services
Administration**

**National Aeronautics and
Space Administration**

48 CFR Parts 43, 47, and 52
Federal Acquisition Regulation (FAR);
Threshold; Cost Comparison; Proposed
Rule

Friday
April 8, 1966

DEPARTMENT OF DEFENSE
GENERAL SERVICES
ADMINISTRATION
NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION
10 CTR PARTS 43, 47, AND 49

1. The Department of Defense, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration (FAA) are jointly sponsoring a series of seminars on the subject of "The Role of the Government in the Development of New Aircraft." The seminars will be held at the Department of Defense, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration (FAA) on the following dates:

2. The seminars will be held at the Department of Defense, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration (FAA) on the following dates:

3. The seminars will be held at the Department of Defense, General Services Administration, National Aeronautics and Space Administration, and the Federal Aviation Administration (FAA) on the following dates:

Part III

Department of Defense
General Services
Administration
National Aeronautics and
Space Administration

10 CTR PARTS 43, 47, AND 49
Federal Aviation Regulation (FAR)
Throughout Cost Comparison Program
RHS

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Parts 43, 47, and 52

**Federal Acquisition Regulation (FAR);
Threshold; Cost Comparison**

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the Federal Acquisition Regulation (FAR) to delete the clause at 52.247-27, Contract Not Affected by Oral Agreement, and its prescription at 47.207-8(b); and to add optional clause 52.243-8, Authorities and Limitations, and its corresponding prescription at 43.106(b).

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 7, 1988, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405. Please cite FAR Case 88-21 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, telephone 523-4755.

SUPPLEMENTARY INFORMATION:**A. Background.**

The Authorities and Limitations clause that is introduced into the FAR by this revision was developed by the FAR Councils in recognition of a need for a contract clause that (1) sets forth the appropriate authorities and limitations regarding contract

modifications; (2) has a more universal applicability than the clause at FAR 52.247-27, Contract Not Affected by Oral Agreement, which is prescribed for use only in contracts for transportation and transportation related services; and (3) may be used in contracting situations that are less complex than those in which the clause at FAR 52.243-7, Notification of Changes, is appropriate.

B. Regulatory Flexibility Act.

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because the proposed revisions are merely an administratively less burdensome alternative than the "notification of changes" clause at 52.243-7. Therefore, an initial regulatory flexibility analysis has not been performed. Comments are invited from small businesses and other interested parties.

Comments from small entities concerning the affected FAR subparts will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite FAR Case 88-610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96-511) does not apply because the proposed rule does not impose information collection requirements within the meaning of the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., and OMB approval is not required pursuant to 5 CFR Part 1320, et seq.

List of Subjects in 48 CFR Parts 43, 47, and 52

Government procurement.

Dated: March 28, 1988.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 43, 47, and 52 be amended as set forth below:

1. The authority citation for Parts 43, 47, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

**PART 43—CONTRACT
MODIFICATIONS**

2. Section 43.106 is amended by adding paragraph (b) to read as follows:

43.106 Contract clause.

(b) The Contracting officer may insert the clause at 52.243-8, Authorities and Limitations, in solicitations and contracts other than small purchases, when inclusion of the clause at 52.243-7 is not appropriate.

PART 47—TRANSPORTATION**47.207-8 [Amended]**

3. Section 47.207-8 is amended by removing and reserving paragraph (b).a

**PART 52—SOLICITATION
PROVISIONS AND CONTRACT
CLAUSES**

4. Section 52.243-8 is added to read as follows:

52.243-8 Authorities and Limitations.

As prescribed in 43.106(b), insert the following clause:

Authorities and Limitations (Mar 1988)

(a) Authority to modify this contract on behalf of the Government is expressly limited to authorized persons (see section 43.102 of the Federal Acquisition Regulation (FAR)) who are properly designated as Contracting Officers in accordance with FAR Subpart 1.6.

(b) Except as otherwise may be expressly provided in this contract, the Contractor assumes all risks, liabilities, and consequences of performing this contract in accordance with any written or oral order (including, but not limited to, direction, instruction, interpretation, or determination) of a person not authorized in writing to issue such an order.

52.247-27 [Removed and reserved]

5. Section 52.247-27 is removed and reserved.

[FR Doc. 88-7696 Filed 4-7-88; 8:45 am]

BILLING CODE 6820-61-M

Estuary Report

Friday
April 8, 1988

Part IV

Environmental Protection Agency

**Chlordane/Heptachlor Termiticides;
Notice of Cancellation and Existing
Stocks Determination and Notice of
Intent To Suspend**

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66137; FRL-3363-5]

Chlordane/Heptachlor Termiticides; Notification of Cancellation and Amendment of Existing Stocks Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of cancellation and existing stocks determination.

SUMMARY: This Notice announces the cancellation of various chlordane/heptachlor termiticide product registrations and establishes certain limitations on the sale and use of existing stocks of such products. Most of the product registrations affected by this Notice were voluntarily cancelled in 1987. At the time of cancellation, the Agency established certain provisions for the continued sale and use of existing stocks. The United States District Court for the District of Columbia issued a ruling on February 23, 1988, ordering the Agency to take "whatever action is necessary * * * so that on and after April 15, 1988, sales, commercial use and commercial application of existing stocks of chlordane and heptachlor which have been the subject of voluntary cancellations shall cease * * *". This Notice describes the Agency's implementation of the Court's ruling and provides a mechanism for holders of existing stocks to challenge the existing stocks limitations set forth herein.

DATE: All comments on or challenges to the existing stocks limitations described in this Notice must be received on or before May 9, 1988.

ADDRESS: Submit three copies of written comments, identified with the document control number "OPP 66137," by mail to: Information Services Section, Program Management and Support Division (TS-757C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this Notice may be claimed "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments

submitted in response to this Notice will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday except legal holidays.

FOR FURTHER INFORMATION CONTACT: George LaRocca, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460, (703-557-2400).

SUPPLEMENTARY INFORMATION: This Notice is organized in three units. Unit I is the notification of the voluntary cancellation actions and the modified existing stocks determination. Unit II provides a list of product registrations to which the Notification and Existing Stocks Determination apply. Unit III is a copy of the District Court's February 23rd Judgment and Order which provides the basis for the modification of existing stocks determination.

I. Notification of Cancellation of Various Chlordane/Heptachlor Termiticide Registrations and Existing Stocks Determination

In December 1986, EPA issued two documents entitled "Guidance for the Reregistration of Pesticide Products Containing Chlordane [or Heptachlor] as the Active Ingredient." Among other things, these documents identified various scientific studies which EPA required registrants to submit to the Agency under FIFRA section 3(c)(2)(B) in order to support continued registration of their chlordane and heptachlor products. Since the issuance of these documents, a number of registrants holding registrations for chlordane and/or heptachlor termiticide products requested cancellation of their registrations. A list of such product registrations to which this Notification and Existing Stocks Determination applies is provided in Unit II of this Notice. EPA accepted these voluntary cancellations, and in return allowed the registrants to continue to distribute the cancelled products for 12 months after cancellation and placed no limitations upon distribution or use of the products outside of the registrants' control (except that all such distribution and use was required to comply with the approved labels for the products).

On February 23, 1988, in the case of *National Coalition Against the Misuse of Pesticides v. EPA*, the United States District Court for the District of Columbia ruled that EPA had not acted in accordance with section 6(a)(1) of FIFRA in granting authorization to distribute and use existing stocks of cancelled pesticide products without first determining that such sale and use

would not have unreasonable adverse effects on the environment. The Court therefore ruled that the Agency's allowance of continued sale and use of cancelled chlordane products was void, and ordered EPA to take "whatever action is necessary * * * so that on and after April 15, 1988, sales, commercial use and commercial application of existing stocks of chlordane and heptachlor which have been the subject of voluntary cancellations shall cease * * *". The Court's decision is reprinted in Unit III of this Notice.

In order to implement the Court's ruling, EPA is issuing this Notification of Cancellation and Existing Stocks Determination. Pursuant to the Court's ruling, EPA hereby serves notice that the registrations for the products listed in Unit II of this Notice are cancelled, and that pursuant to section 6(a)(1) of FIFRA, 7 U.S.C. 136d(a)(1), it shall be unlawful for any person to distribute, sell, offer for sale, hold for sale, deliver for shipment, or receive (and having so received) deliver or offer to deliver to any person, or to make commercial use or commercial application of such products, after April 14, 1988. Any of the foregoing listed actions involving the cancelled registrations listed in Unit II of this Notice after April 14, 1988 shall be a violation of FIFRA section 12(a)(2)(k) which states:

It shall be unlawful for any person to violate any cancellation of registration of a pesticide under section 6, except as provided in section 6(a)(1).

The prohibition on sale and commercial use of chlordane/heptachlor products affected by the determinations set forth in this Notice is intended to apply to all sale of such products in any situation, and to all use and application of such products with the exception of use and application in accordance with label directions by individuals (as opposed to organizations, government agencies, corporations, etc.) on property owned by those individuals. However, this exception for individuals shall not apply to use or application by individuals on property which is owned by them but which is rented or leased to others and is occupied or intended to be occupied by human beings, nor to use on new structures intended for human occupation which are under construction for sale or lease.

As noted earlier, the basis for the Court's ruling was the Court's determination that EPA had not made the finding required by FIFRA section 6(a)(1) in order to allow continued sale or use of the cancelled chlordane/heptachlor products. The Court ruled

that the finding the Agency had made with respect to the cancelled stocks was not the finding required by the statute, and that in the absence of the proper finding, no further sale or use could lawfully be permitted. This proper finding, according to the Court, must be "a reasoned finding, supported by evidence, as to whether the continued sale and use of existing stocks of non-Velsicol registered, reformulated chlordane and heptachlor 'is not inconsistent with the purposes of [FIFRA] and will not have unreasonable adverse effects on the environment'."

The Agency has not made the finding the Court ruled was required to support continued sale and use of existing stocks. In the absence of the finding called for the Court's Order, no further sale or commercial use will be allowed. However, the Agency believes it is appropriate under all the facts of this case to provide any person adversely affected by this Notification and Existing Stocks Determination an opportunity to provide the Agency with evidence that would support a finding that continued sale and commercial use of the products listed in Unit II of this Notice would not be inconsistent with the purposes of FIFRA and would not have unreasonable adverse effects on the environment.

Accordingly, any person adversely affected by this Notification and Existing Stocks Determination may petition the Agency on or before May 9, 1988 to make a finding pursuant to section 6(a)(1) that would permit continued sale or commercial use of the listed cancelled products. Such a petition must include sufficient evidence to support the finding urged by the petitioner. If the Agency determines that a properly supported petition has been submitted and that an affirmative finding pursuant to section 6(a)(1) should be made, the Agency will petition the District Court for modification of its February 23rd Order in accordance with its findings.

Any disposal of products of cancelled registrations subject to this Notification and Existing Stocks Determination must be in accordance with the requirements of applicable Federal, state, and local laws and regulations, including the Resource Conservation and Recovery Act.

II. List of Voluntarily Cancelled Registrations of Chlordane and Heptachlor Termiticides

Below are listed, in order of EPA Registration numbers, the voluntarily cancelled registrations for chlordane and heptachlor termiticide products to

which this Notice applies. The names of the companies to which these registrations are assigned to EPA's files, and the effective dates of cancellation are also provided. Product names are not listed since these are often changed and no listing would be complete.

Chlordane and heptachlor products registered to Velsicol Chemical Corporation are not affected by the present Notice, but rather by the Agency's Order of October 1, 1987, published in the Federal Register of November 3, 1987 (52 FR 42145). However, since the sale, distribution and use of Velsicol's voluntarily cancelled products also terminate on April 15, 1988, these registrations are included in the following list for the convenience of all interested parties.

CHLORDANE CANCELLATIONS

Company	EPA Registration No.	Effective Date
Bonide Chemical.....	4-96	3/17/88
	4-218	3/17/88
	4-274	3/17/88
	4-275	3/17/88
	4-287	3/17/88
Dragon Chemical Corp....	16-96	4/27/87
	16-116	4/27/87
	16-122	4/27/87
	16-124	4/27/87
Rigo Company IncD70-119.....	4/27/87	
Thompson-Hayward Chemical Co.....	148-27	6/01/87
	148-139	6/01/87
Dexol Industries.....	192-42	3/30/88
	192-43	3/30/88
	192-132	3/30/88
	192-133	3/30/88
Tobacco States Chemical Co.....	226-177	4/27/87
	226-184	4/27/87
Chevron Chemical Co....	239-478	3/25/87
	239-1232	3/25/87
FMC Corp.....	279-383	3/07/87
	279-538	11/01/86
C.J. Martin Co.....	299-171	3/25/87
Residex Corp.....	373-26	3/25/87
Imperial Inc.....	407-269	3/25/87
	407-400	3/25/87
Boyle-Midway Inc.....	475-192	3/25/87
Rockland Chemical Company Inc.....	572-65	3/25/87
Haviland Agricultural Chemical Co.....	595-129	3/25/87
	595-321	3/25/87
Federal Chemical Company Inc.....	654-12	6/01/87
	654-19	7/01/87
	654-67	7/01/87
	654-110	6/01/87
Prentiss Drug and Chemical Co.....	655-516	3/25/87
Perk Products and Chemical Co.....	690-53	7/01/87
Southland Pearson and Co.....	728-45	3/24/88
	728-47	3/24/88
MFA Oil Co.....	746-58	3/25/87
	746-76	3/25/87
	746-119	3/25/87
Security Lawn and Garden Products Co...	769-90	3/25/87

CHLORDANE CANCELLATIONS—Continued

Company	EPA Registration No.	Effective Date
Faesy & Besthoff Inc.....	769-511	3/25/87
	779-82	6/02/87
Chas. H. Lilly Co.....	802-71	9/11/87
Green Light Co.....	869-14	3/25/87
	869-188	3/25/87
Velsicol Chemical Co.....	876-63	11/04/87
	876-86	3/25/87
	876-100	3/25/87
	876-104	11/04/87
	876-233	11/04/87
	876-281	9/28/87
	876-303	9/28/87
	876-304	9/28/87
	876-305	9/28/87
	876-306	9/28/87
	876-308	9/28/87
	876-309	4/28/87
	876-310	4/27/87
Miller Chemical and Fertilizer Corp.....	904-135	3/25/87
	904-223	3/25/87
Cre-O-Tox Chemical Products Co.....	1066-26	7/01/87
	1066-28	7/01/87
	1066-29	3/19/88
Seacoast Laboratories Inc.....	1159-102	7/01/87
	1159-178	7/01/87
Cotton States Chemical Co.....	1339-74	8/20/87
	1339-87	8/20/87
Land O'Lakes.....	1381-51	3/25/87
	1381-83	3/25/87
Universal Cooperatives Inc.....	1386-26	3/25/87
	1386-324	8/20/87
	1386-353	8/20/87
Dettlebach Chemical Corp.....	1421-23	3/21/88
FCX, Inc.....	1598-145	4/27/87
	1598-244	4/27/87
Griffin Corp.....	1812-242	7/01/87
	1812-243	7/01/87
Triangle Chemical Co....	1842-41	5/14/87
	1842-42	5/14/87
Terminix Division of Cook Industries Inc....	1927-5	2/19/87
	1927-20	2/19/87
	1927-21	2/19/87
	1927-49	2/19/87
ELCO Manufacturing Co.....	1941-66	7/01/87
Farmland Industries Inc.....	1990-178	3/25/87
	1990-179	3/25/87
W.R. Grace and Co.....	2124-742	3/28/88
PBI-Gordon Corp.....	2217-34	5/01/87
	2217-98	5/01/87
Hopkins Agricultural Chemical.....	2393-350	3/25/87
Colonial Products Inc....	3314-73	7/01/87
	3314-74	7/01/87
LaRoche Industries.....	3442-747	3/25/87
	3442-816	3/25/87
	3442-846	3/25/87
	3442-847	3/25/87
Earl May Seed and Nursery L.P.....	3772-8	3/25/87
Stephenson Chemical Company Inc.....	4887-19	3/22/88
	4887-48	3/22/88
	4887-183	3/22/88
Redwood Chemical Inc..	4981-5	6/29/87
	4981-6	6/29/87
Coastal Chemical Corp..	5549-41	3/17/88
Chacon Chemical Corp..	5719-24	7/01/87
GRO Chemical Co.....	5778-33	6/11/87
Helena Chemical Co.....	5905-97	3/25/87

CHLORDANE CANCELLATIONS—Continued

Company	EPA Registration No.	Effective Date
Octagon Process Inc.....	5905-102	3/25/87
ArChem Corp.....	6820-15	7/01/87
	7122-3	3/17/88
	7122-34	3/17/88
	7122-121	3/17/88
Forshaw Chemical Co.....	7234-5	3/17/88
	7234-6	3/17/88
	7234-10	3/18/88
	7234-100	3/17/88
	7234-101	3/17/88
	7234-20	3/18/88
Voluntary Purchasing Group, Inc.....	7401-78	6/18/87
	7401-348	6/18/87
B and G Co.....	8612-86	3/21/88
Sunniland Corp.....	9404-6	3/23/88
Nationwide Chemical Products, Inc.....	9591-6	10/01/87
	9591-7	10/01/87
Ross-Daniels, Inc.....	9649-2	6/12/87
Cornbelt Chemical Co.....	10107-7	3/21/88
	10107-8	3/21/88
Ford's Chemical and Service Inc.....	10370-40	3/28/88
	10370-116	3/28/88
	10370-144	3/28/88
	10370-145	3/28/88
Hacienda Enterprises.....	11037-7	4/27/87
Puma Chemical Company.....	11611-4	7/17/87
Drexel Chemical Company.....	19713-214	3/24/88
	19713-215	3/24/88
Platte Chemical Co.....	34704-1	4/27/87
Falls Chemical Co.....	40831-5	3/24/88
	40831-24	3/24/88
Kaw Valley, Inc.....	44215-7	9/08/87
	44215-20	12/12/87
Wilson Laboratories.....	50383-20	3/24/88
	50383-29	3/24/88
Cameron M. Baird.....	50415-27	7/01/87
Micro-Flo Co.....	51036-30	11/13/87
	51036-31	11/13/87
Garden Care by Farmingdale, Ltd.....	53127-1	3/22/88
	53127-10	3/22/87

HEPTACHLOR CANCELLATIONS

COMPANY	EPA REGISTRATION NO.	EFFECTIVE DATE
Thompson-Hayward Chemical Co.....	148-964	6/01/87
Velsicol Chemical Corp.....	876-101	4/27/87
	876-85	9/28/87
	876-233	11/04/87
	876-308	9/28/87
	876-309	4/27/87
	876-310	4/27/87
Cre-O-Tox Chemical Products Co.....	1066-28	7/01/87
	1066-29	3/19/88
	1066-30	7/01/87
Griffin Corp.....	1812-77	7/01/87
Triangle Chemical Co.....	1842-183	5/14/87
Terminix Division of Cook Industries, Inc.....	1927-50	4/21/87
Stephenson Chemical Company Inc.....	4887-59	3/22/88
	4887-85	3/22/88
Redwood Chemical, Inc.....	4981-17	7/08/83

HEPTACHLOR CANCELLATIONS—Continued

COMPANY	EPA REGISTRATION NO.	EFFECTIVE DATE
Red Wing Chemical Co.....	6723-8	6/07/84
ArChem Corp.....	7122-6	3/17/88
Forshaw Chemical Co.....	7234-27	3/18/88
	7234-31	3/18/88
	7234-89	3/18/88
Chem-Nut, Inc.....	37686-27	5/08/87
Farmco Industries Inc.....	46778-1	5/12/87
Micro-Flo Co.....	51036-50	4/27/87

III. Judgment and Order of the United States District Court for the District of Columbia

On February 23, 1988, Judge Louis F. Oberdorfer of the United States District Court for the District of Columbia issued the following judgment and Order in the case of National Coalition Against the Misuse of Pesticides, *et al.* plaintiffs, v. United States Environmental Protection Agency, *et al.* defendants, (Civil Action No. 87-2089-LFO).

Judgment and Order

On October 1, 1987, the United States Environmental Protection Agency ("EPA") entered into a supplemental agreement with Velsicol Chemical Corporation ("Velsicol"), the sole manufacturer of chlordane and heptachlor, providing that sale and use of existing stocks of those products registered to Velsicol will cease on or before April 15, 1988. The October 1 agreement did not address existing stocks of Velsicol manufactured chlordane and heptachlor that was registered to others. On January 11, 1988, this Court granted in part plaintiffs' motion for summary judgment, ruling that "EPA's policy of exchanging use authorization on existing stocks for voluntary cancellations from non-Velsicol reformulator registrants does not satisfy the agency's obligation under 7 U.S.C. sec. 136d(a)(1)." Memorandum of January 11, 1988 at 6. The Court ordered EPA to

make and submit to the Court a reasoned finding, supported by evidence, as to whether the continued sale and use of existing stocks of non-Velsicol registered, reformulated chlordane and heptachlor is not inconsistent with the purposes of [FIFRA] and will not have unreasonable adverse effects on the environment, pursuant to 7 U.S.C. sec. 136d(a)(1) * * *.

Order of January 11, 1988 at 1. Defendant subsequently submitted a response to that Order, plaintiffs responded to defendants' response, and further oral argument was held on February 12, 1988.

The Court has considered the briefs and oral argument of the parties and has reviewed and considered the other submissions of the parties including the

administrative record and affidavit testimony. There is no genuine issue of material fact so that plaintiffs are entitled to summary judgment as a matter of law on the issue of the continued sale and use of existing stocks of chlordane and heptachlor termiticide products, which are the subject of voluntary cancellations.

In connection with cancellations of one or more uses of a pesticide, including voluntary cancellations, section 6(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), 7 U.S.C. 136d(a)(1), requires EPA to permit continued sale or use of existing stocks only "to such extent, under such conditions, and for such uses" which the Administrator determines are "not inconsistent with the purposes of [FIFRA] and will not have unreasonable adverse effects on the environment." FIFRA defines "unreasonable adverse effects on the environment" to mean "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide." FIFRA sec. 2(bb), 7 U.S.C. 136(bb).

An adequate sec.5(a)(1) determination must analyze the risks and benefits from the sale and use of existing stocks and determine whether or not such sale and use would be consistent with FIFRA and whether or not such sale and use would pose any unreasonable risk to man or the environment. *See* 7 U.S.C. 136(bb). Instead, defendants found only that the settlement agreement permitting the use of existing stocks would result in less use (and therefore less risk) than would a proceeding to cancel the pesticide's registration without a suspension of the registration during the proceeding.¹ This finding does not meet the requirements of sec. 6(a)(1).

What the defendants have done here is indistinguishable in principal from the action of the Secretary of Commerce, recently condemned by our Court of Appeals in *Kokechik Fishermen's Association v. Secretary of Commerce*, No. 87-5239, slip op. (D.C. Cir. Feb. 16, 1988). There, the Secretary issued a permit to Japanese fishermen to take northern fur seals even though he could not make, or had not made, a finding, required by statute, as to whether the particular seal population was within its optimum sustainable level. *Id.* at 12-13. Nonetheless, the Secretary "issued the permit taking the position that as long as it did not authorize the taking of

¹ The defendants determined that a suspension was not justified.

northern fur seals he had complied with the [relevant statute]." *Id.* at 13 (emphasis added). Said the Court of Appeals, however, "[t]he result was, in effect, that the permit allowed the Federation to take protected marine mammals for a price—the civil penalties imposed for such takings * * * This is a result that the [relevant statute] does not countenance." *Id.*

So here defendants, without making a required finding that sale and use of existing chlordane stocks will not unreasonably endanger man or the environment, have allowed the continued sale and current use of those stocks for a price—i.e., conditional suspension of production and suspension of some prospective distribution from existing stocks by chlordane registrants. This, FIFRA does not countenance.

Furthermore, defendants have not addressed the appropriate relevant factors, and have not adequately supported or rationally justified a determination that the continued sale or use of existing stocks permitted in the October 1, 1987 Order and the other chlordane and heptachlor voluntary cancellations is consistent with the purposes of FIFRA and would not have unreasonable adverse effects on man or the environment, within the meaning of FIFRA.

The Court has not overlooked EPA's expressed concern about the "possibility" that invalidation of the existing stocks concession for chlordane registrants "could constitute a basis on the part of Velsicol and the other registrants to void the August agreement as well as the voluntary cancellations." Defendants' Response to Plaintiffs' Revised Proposed Judgment and Order (filed Feb. 23, 1988) at 3 n.l. There will be time enough to deal with such a hypothetical situation when, and if, it materializes.

Accordingly, it is this 23rd day of February, 1988, hereby

Adjudged and Declared: That defendants' decision to permit continued sale and use of existing chlordane and heptachlor stocks which are the subject of voluntary cancellation in the absence of the finding required by sec. 6(a)(1) is arbitrary, capricious, and an abuse of discretion; and it is further

Adjudged and Declared: That the provisions of any agreement entered into by defendants (and only such provisions) permitting the continued sale and use of existing chlordane and heptachlor stocks which are the subject of voluntary cancellations including, but not limited to, the provisions of the October 1, 1987 "Order Accepting Voluntary Cancellations and

Authorizing Use of Existing Stocks with Limitations," made in accordance with the Supplemental Memorandum of Understanding with Velsicol Chemical Corporation, are contrary to law; and it is further

Adjudged and Declared: That the defendants' decision to permit sale or commercial use and commercial application (as distinguished from household and homeowner use and application) of existing stocks which have been the subject of voluntary cancellations is contrary to law; and it is further

Ordered and Adjudged: That the defendants shall; on or before April 15, 1988, take whatever action is necessary to conform to, and to enforce, the requirements of the law as declared in this Judgment and Order so that on and after April 15, 1988, sales, commercial use and commercial application of existing stocks of chlordane and heptachlor which have been the subject of voluntary cancellations shall cease; and it is further

Ordered: That plaintiffs' motion for partial summary judgment is, to the extent theretofore stated, *Granted*; and it is further

Ordered: That defendants' motion for summary judgment is *Denied*; and it is further

Ordered: That there being no just reason for delay in the entry of this Order as a Judgment, and in order to permit its review by the Court of Appeals, the Clerk of Court shall, pursuant to F.R. Civ. P. 54(b), enter this Judgment and Order forthwith in favor of plaintiffs; and it is further

Ordered: That on March 21, 1988, at 9:00 a.m., there will be a status call to schedule further proceedings on unresolved issues, including the disposition of existing stocks derived from suspended, as distinguished from voluntarily cancelled, registrations.

Louis F. Oberdorfer,

United States District Judge.

The list of voluntarily cancelled registrations in Unit II of this Notice may be incomplete due to additional voluntary cancellations received after the publications of this Notice. Persons who wish to check the status of a particular registration not listed in Unit II of this Notice, should contact Mr. George LaRocca, the designated information contact for this action, at the address and phone number provided at the beginning of this Notice.

Dated: April 5, 1988.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 88-7799 Filed 4-6-88; 10:51 am]

BILLING CODE 6560-50-M

[OPP-38508; FRL 3363-4]

Chlordane/Heptachlor Termiticides; Intent to Suspend Registration and to Place Limitations on Sale and Use of Existing Stocks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to suspend.

SUMMARY: EPA is issuing a Notice of Intent to Suspend various chlordane/heptachlor termiticide product registrations and to place limitations on the sale, distribution, and use of existing stocks of suspended products. All of the products affected by this Notice have previously been suspended for failure to commit to comply with the terms of data-call-in requirements contained in guidance documents published on December 31, 1986. There were no prohibitions placed on the sale and use of existing stocks of suspended products by persons other than the registrant. On February 23, 1988, the United States District Court for the District of Columbia issued a ruling ordering the Agency to place certain limitations on the sale and use of existing stocks of voluntarily cancelled chlordane/heptachlor termiticide products by April 15, 1988. Any suspensions which result from this Notice of Intent to Suspend will include prohibitions on the sale and use of existing stocks of the suspended pesticides similar to the prohibitions imposed by the United States District Court on existing stocks of voluntarily cancelled termiticides.

DATE: Requests for hearings by persons adversely affected by this Notice must be received by the Agency on or before May 9, 1988.

ADDRESS: Three copies of any request for a hearing must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George LaRocca, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703-557-2400).

SUPPLEMENTARY INFORMATION: This Notice is organized in three units. Unit I is the Notice of Intent to Suspend various chlordane/heptachlor